

REMARKS

This Amendment is in response to the Final Office Action dated August 24, 2004 and the Advisory Action of November 24, 2004. Claims 1-27 are pending in this application. Previously, claims 6, 11, 12, 15-20, 26 and 27 were withdrawn from further prosecution for being directed to a non-elected species. New claims 28-35 are being presented for consideration. Applicants have carefully reviewed the Examiner's position presented in the final Office Action and Advisory Action and respectfully request reconsideration of the claims in view of the remarks presented below.

Claims 1-5, 7-10, 13, 14 and 21-25 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,187,025 to Machek ("the Machek patent"). Applicants have carefully reviewed the Machek patent and strongly disagree with the Examiner's characterization, and changing position, regarding the various elements disclosed in the Machek patent. Initially, Applicants note that the Examiner indicated in the Final Office Action that the guide wire was the flexible wire 135 and that the stop member was the component identified as an end cap 137 in the Machek patent. In the Advisory Action, the Examiner has now taken the position that the guide wire includes the flexible wire 135, a component referred to as a flexible sleeve 123 and the end cap 137. Thus, the Examiner has identified the end cap 137 as both being part of the guide wire and the stop member that is attached to the guide wire. Applicants respectfully submit that the end cap 137 cannot function both as the guide wire and a discrete component that is secured to the guide wire. Applicants believe that it is improper for the Examiner to identify the same component as two different components recited in the claims. Moreover, as Applicants addressed in the Response After Final Rejection, this flexible wire 135 in the Machek patent is merely a short wire which connects the distal end of the tubular member 125 to the end piece 137. The Examiner's position that the flexible wire 135, the flexible sleeve 127 and the end cap 137 are considered a wire that guides and therefore must be a guide wire simply disregards what is known in the art to

constitute a guide wire. For this reasons stated above, the Machek patent fails to disclose the claimed invention recited in the pending claims.

Applicants also disagree with the Examiner's position that the Machek patent discloses a compressing element located within the interior of the filter device. The Examiner has taken the position that the movable core wire 114 disclosed in the Machek patent constitutes the engageable element which forms part of the compressing element recited in the rejected claims. However, Applicants note that the core wire 114 is not disposed within the interior of the filter device as recited in the rejected claims. Rather, as is clearly shown in FIG. 10 of the Machek patent, the core wire remains proximal to, and outside of, the filter device 120. For at least this additional reason, the Machek patent fails to achieve the claimed structure of the rejected claims.

With regard to claims 21-25, the particular system utilized in accordance with the claimed method for capturing embolic material is not disclosed in the Machek patent as is discussed above. Applicants submit that both the system and method of the pending claims are not disclosed in the Machek patent. Accordingly, Applicants respectfully request the Examiner to withdraw the Machek patent as an anticipatory reference.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

REQUEST FOR ONE-MONTH EXTENSION OF TIME

Applicants respectfully request a one-month extension of time to respond to the Final Office Action dated August 24, 2004 and the Advisory Action dated November 24, 2004, in the above-identified application.

The requisite fee of \$120.00 pursuant to 37 C.F.R. §1.136(a) is enclosed herewith.
Please charge any additional fee or credit any overpayment to our Deposit Account
No. 06-2425. A duplicate copy of this paper is enclosed.

Respectfully submitted,

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